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FCC Mail Room

CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

November 7, 2008

Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

02-6

RE: NOTICE OF APPEAL

| | |
|------------------------------|----------------------------|
| SPIN: | 143026761 |
| Form 471 Application Number: | 425096 |
| Funding Year: | 2004 |
| FCC Registration Number | |
| Applicant Name: | SOMERVILLE SCHOOL DISTRICT |
| Billed Entity Number: | 120536 |
| Applicant Contact Person: | James Halloran |

To Whom It May Concern:

Please be advised that I am the City Solicitor for the City of Somerville, Massachusetts ("the City"). As the City's attorney, I am writing to inform you that the City does hereby appeal the Notice of Commitment Adjustment Letter and Decision for Funding Year 2004: 7/01/04 - 6/30/04, which was submitted to the City by the Universal Service Administrative Company Schools and Libraries Division ("USAC") on or about September 8, 2008. I have enclosed herewith a copy of the Notification of Commitment Adjustment Letter issued by USAC on September 8, 2008. It is the City's position that any and all funding issues are the result of actions of Achieve Telecom and its commitment that the City would bear no costs for the services provided by Achieve Telecom. Therefore, the City should not be liable for any funding discrepancy, if any.

In addition to this appeal filed with the Federal Communication Commission, the City, in order to preserve its appeal rights, on this day filed an appeal with USAC.

Please feel free to contact me concerning this matter. My contact information is as follows:



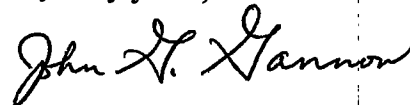
Office of the Secretary

November 7, 2008

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John G. Gannon
City Solicitor
Law Department
Somerville City Hall
93 Highland Avenue
Somerville, MA 02143
Tel: 1-617-625-6600, x4410
Fax: 1-617-776-8847
E-Mail: jgannon@ci.somerville.ma.us

Very truly yours,



John G. Gannon
City Solicitor

JGG/

Enclosures

cc: Joseph A. Curtatone, Mayor
Michael T. Buckley, Mayor's Aide
Frank X. Wright, Assistant City Solicitor

Karthik Viswanathan
SOMERVILLE SCHOOL DISTRICT
IT Dept City Hall
Somerville, MA 02143



Universal Service Administrative Company

Schools & Libraries Division

Notification of Commitment Adjustment Letter
Funding Year 2004: 7/01/2004 - 6/30/2005

September 8, 2008

Joy Jackson
Achieve Telecom Network of MA, LLC
40 Shawmut Rd. Suite 200
Canton, MA 02021

Re: SPIN: 143026761
Form 471 Application Number: 425096
Funding Year: 2004
FCC Registration Number
Applicant Name: SOMERVILLE SCHOOL DISTRICT
Billed Entity Number: 120536
Applicant Contact Person: James Halloran

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the adjustments to the funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and the FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125- Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals option.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the applicant detailing the necessary applicant action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or the applicant submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: James Halloran
SOMERVILLE SCHOOL DISTRICT

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on Form 471.

SERVICES ORDERED: The type of service ordered by applicant, as shown on Form 471.

BILLING ACCOUNT NUMBER: The account number that you have established with your customer for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been disbursed for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM SERVICE PROVIDER: This represents the amount of improperly disbursed funds to date for which the service provider has been determined to be primarily responsible. These improperly disbursed funds will have to be recovered from the service provider.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

Funding Commitment Adjustment Report
Form 471 Application Number: 425096

| | |
|--|------------------|
| Funding Request Number: | 1175002 |
| Contract Number: | Achieve0401 |
| Services Ordered: | TELCOMM SERVICES |
| Billing Account Number: | 617-625-6600 |
| Original Funding Commitment: | \$406,929.00 |
| Commitment Adjustment Amount: | \$406,929.00 |
| Adjusted Funding Commitment: | \$0.00 |
| Funds Disbursed to Date: | \$0.00 |
| Funds to be Recovered from Service Provider: | \$0.00 |

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. The information obtained during the Special Compliance Review indicates that Achieve Telecom (Achieve) has a partnership with USDLA and solicits donations on behalf of USDLA. USDLA then provides grants to applicants to use to pay their non-discount share, which is specifically designated for Achieve funding requests. Achieve's bids to applicants indicate that Achieve markets their service to applicants as a no cost service because Achieve is able to guarantee applicants that they will receive USDLA grants to pay their share for the Achieve funding requests. Achieve is therefore providing applicants with a rebate for the applicant's portion of the cost. Applicants are required to conduct a fair and open competitive bidding process and to pay the non-discount share of the cost of the products and services. It is a violation of program rules for the service provider to waive the applicant's non-discount portion or otherwise not require payment. The applicant's share cannot come directly or indirectly from the applicant's service provider. Applicants may not receive rebates for services or products purchased with universal service discounts from the service provider providing the services. The information obtained shows that Achieve guarantees that the applicants will receive a grant from the USDLA to use to pay the applicant's share for the Achieve funding requests. Because Achieve is able to guarantee this grant, Achieve is providing the applicants with a rebate of the applicant's share of the cost of the services in violation of program rules. Furthermore, Achieve has an unfair competitive advantage based on violating the rule that applicants not receive rebates for services or products purchased with universal service discounts from the service provider providing the services. Both the applicant and the service provider are responsible for these rule violations because the applicant was unable to conduct a fair and open competitive bidding process based on Achieve's no-cost guarantee, and Achieve had an unfair competitive advantage because Achieve guaranteed a no-cost service in violation of the rule that the service provider not provide a rebate to the applicant. USAC has determined that both the applicant and the service provider are responsible for this rule violation; if any funds were disbursed, USAC will seek recovery of the improperly disbursed funds from both the applicant and the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**